

ZONING BYLAW

(3/8/16)

Amend Article 6 - Design Standards of the Spencer Zoning Bylaws by adopting a new Section 6.6 Fences and Hedges as follows:

6.6 Fences and Hedges

6.6.1 Fences, walls, shrubbery, hedges or any similar structure shall be permitted within the required front, side, and rear yards subject to the following ;

- A. All privately owned fences or walls shall be erected on private property and shall be no closer to any public sidewalk than thirty-six (36) inches. No landscape plantings shall intrude into or over a public sidewalk for a height of eight feet above the sidewalk.
 - B. No person shall erect or cause to be erected any fence, wall, shrubbery, hedge or any similar structure adjoining any street or public ground in the Town without first having ascertained the bounds of the same by application to the Highway Department. In cases where information/evidence is unavailable or insufficient to ascertain said bounds, the Highway Superintendent may require the applicant, at the applicant's expense, to confirm said bounds by a Professional Land Surveyor.
 - C. Fences, walls, shrubbery, hedges or any similar structure shall not exceed:
 - 1. four (4) feet in height along the front lot line and that portion of the side lot lines between the front lot line and the minimum front setback line.
 - 2. six (6) feet in height along the rear lot line and along that portion of side lot lines between the minimum front setback line and rear lot line.
 - 3. For compelling reasons of safety, aesthetics, or site design, fences, walls, shrubbery, hedges or any similar structure in excess of these height requirements may be permitted by Special Permit issued by the Zoning Board of Appeals; or by the Planning Board in cases where they are already the permitting authority for a Special Permit and/or Site Plan Review for the proposed use.
 - D. Temporary fences on construction sites may be a maximum height of eight (8) feet to protect the site, providing the fence meets the requirements of Section 6.6.1.D. The Building Commissioner, upon the issuance of a building permit, may set a limit as to the length of time the fence may remain erected.
 - E. On corner lots, no fence, wall, shrubbery, hedge or any similar structure or landscape/plantings shall be located within the Clear Sight Triangle so as to obstruct visibility at the intersection in a manner that will jeopardize the safety of vehicles and pedestrians. The minimum Clear Sight Triangle is that area formed by the intersecting lot lines on the street and a straight line joining said lot lines at a point thirty (30) feet distant from the point of intersection of street lines (see diagram below). The minimum Clear Sight Triangle shall be confirmed by the Highway Department prior to the erection or installation of such fence/wall, shrubbery, hedge or similar structure.
- Diagram: Clear Sight Triangle

Proposed Driveway Regulations:
SPENCER GENERAL BYLAW

(3/15/16)

Delete Current Section 4. Driveway Cuts and Drainage, of Article 6 Street and Highways, in its entirety and in its place adopt the following:

Section 4. Driveways, Curb Cuts and Drainage

- 4.1 Any alteration or installation of driveway(s) or driveway(s) curb-cut(s) onto any public or private roadways within the Town shall require written permission from the Highway Superintendent.
- 4.2 Driveways shall be located with driver safety in mind including but not limited to providing best available site line for the property and other roadway users in accordance with AASHTO, FHWA and MASS DOT design standards. If advanced roadway warning safety signage is required by the Spencer Highway Department, or requested by the applicant or property owner and approved by the Highway Department, it shall be fabricated in accordance with AASHTO, MUTCD and Spencer Highway Department standards and paid for by the applicant or property owner. The installation of required safety signage to be located on private roads or private property shall be the responsibility of the applicant or property owner and approved by the Spencer Highway Department. Installation shall be as directed by the Spencer Highway Department.
- 4.3 All driveways and curb-cuts require a Driveway/Curb-Cut Permit issued by the Spencer Highway Superintendent or his/her designee, prior to commencement of construction. The Highway Superintendent shall administer, implement and enforce this Bylaw and shall develop regulations relating to the forms, procedures, terms, conditions, fees, surety and as otherwise may be required for enforcement of this Bylaw or as may be required for improving safety on the public or private way.
- 4.4 Applications for a Driveway/Curb Cut Permit shall include a Driveway Plan prepared in accordance with, and sufficient to show compliance with, this section and any applicable sections of the Zoning Bylaw and Spencer Highway Department Driveway Permit Requirements.
 - 4.4.1 Where a use requires the issuance of a Site Plan Review under the Zoning Bylaw, said plan shall comply with the requirements of the Zoning Bylaw's Sections 7.4.4, 7.4.5(B.)(C.)(H.)(J.).
 - 4.4.2 Where a use doesn't require the issuance of a Site Plan Review under the Zoning Bylaw, then said plan shall comply with the requirements of the Zoning Bylaw's Section 7.4.5(C.) and Section 7.4.6(A.)(F.)
 - 4.4.3 The Highway Superintendent may require a Peer Review (to be selected by the Highway Superintendent) of the plans and drainage calculations, to be paid for by the applicant.

4.5 Applications for a Building Permit, Special Permit, Site Plan Review, Variance or any other town permit involving the construction or alteration of a driveway/curb cut must include a Driveway/Curb Cut Permit tentatively approved by the Highway Superintendent, or his/her designee.

4.6 The number of driveways/curb-cuts shall be limited to one per lot.

4.6.1 For driveways/curb-cuts that do not involve a Special Permit, Site Plan Review or Variance the Highway Superintendent, or his/her designee, may permit additional driveways/curb-cuts where he/she specifically finds that:

- a. the applicant can show that there is something unique about the property that would otherwise render flow to and from the property unsafe and unmanageable, and
- b. more than one curb cut is necessary for traffic safety purposes, and
- c. it is necessary to achieve, and does not conflict with, the Design Standards of this section.

4.6.2 For driveways/curb-cuts that do involve a Special Permit, Site Plan Review or Variance the Planning Board/ZBA may permit additional driveways/curb-cuts in accordance with the provisions of the Zoning Bylaw.

4.7 Design Standards

4.7.1 Driveways shall be designed and constructed in conformance with these regulations and the Spencer Highway Department Driveway Permit Requirements.

4.7.2 Driveways shall be located so as to minimize conflict with traffic on public or private streets.

4.7.3 Driveways shall be constructed in a manner ensuring reasonable and safe access from the street serving the premises to the building site of the structure on the premises, for all vehicles, including, but not limited to, emergency, fire and police vehicles.

4.7.4 Driveways shall be arranged for the free flow of vehicles at all times and the maneuvering spaces and aisles shall be so designed that all vehicles may exit from and enter onto a public street by being driven in a forward direction.

4.7.5 For corner lots, the driveway/curb-cut shall access from the street generating the lesser of the traffic flows.

4.7.6 Except in access strips for rear lots (Zoning Bylaw §5.3.10) and parcels with insufficient frontage (Zoning Bylaw §5.3.11), no driveway shall be located within 10 feet of any side or rear lot line except that:

- a. for driveways/curb-cuts that do not involve a Special Permit, Site Plan Review or Variance the Highway Superintendent may permit a lesser setback after a determination that said driveway will provide safe and reasonable access for emergency vehicles and will not be inconsistent with the purposes of this section nor have a detrimental impact on public safety.
 - b. For driveways/curb-cuts that do involve a Special Permit, Site Plan Review or Variance the Planning Board/ZBA may permit a lesser setback in accordance with the provisions of the Zoning Bylaw.
- 4.7.7 Except for Common Driveways, all driveways and curbcuts shall be over the front lot line directly from the street, and driveways shall not cross lot lines of adjoining properties.
- 4.7.8 Stormwater run-off from the driveway shall not be directed towards or discharged directly onto the public or private way and shall be designed in accordance with acceptable engineering practices. All site and driveway designs shall demonstrate that the design includes appropriate stormwater storage, treatment and best management practices (BMPs) during construction and post-construction.
- 4.7.9 Driveways shall be designed to accommodate all snow removal and snow storage on-site.
- 4.7.10 Driveway Grades

Use	Maximum Grade	Minimum Grade	Maximum grade at driveway's intersection with street
Single-Family, Two-Family, Three-Family, Agricultural	11%*	1%	First 20' - 1%* Next 30' – 5%*
Commercial, Industrial, Institutional, Civic and	5%*	1%	First 20' - 1%* Next 30' – 5%*

Multi-Family Uses			
<p>* For driveways/curb-cuts that do not involve a Special Permit, Site Plan Review or Variance the Highway Superintendent may permit a greater grade after a determination that said driveway will provide safe and reasonable access for emergency vehicles and will not be inconsistent with the purposes of this section nor have a detrimental impact on public safety.</p> <p>For driveways/curb-cuts that do involve a Special Permit, Site Plan Review or Variance the Planning Board/ZBA may permit a greater grade in accordance with the provisions of the Zoning Bylaw.</p>			

- 4.7.11 Driveways shall be surfaced with a durable, all-season nondusting material, drained and suitably maintained to the extent necessary to avoid any nuisance by reason of dust, erosion or water flow onto streets or adjoining property.
- 4.7.12 Driveways shall intersect the street's edge of pavement at a 90° angle. The Highway Superintendent may permit driveway intersections of lesser angles where it is found that such angle provides adequate site distances and safe entry and egress from the site relative to the intended use of the property and speeds traveled on the road.
- 4.7.13 A paved apron consisting of hot mix asphalt of at least 15 feet in length shall be constructed at the driveway-street intersection, in conformance with Spencer Highway Department Driveway Permit Requirements, to prevent damage to the edge of the road and ensure that dirt and debris is not tracked into the street. No overlayment will be allowed onto the existing road surface at any time.
- 4.7.14 A driveway's entrance or exit shall not exceed, between its intersection with the front lot line and its intersection with the edge of road pavement or surface, a width of 15 feet for single-, two- and three-family uses and 24 feet for all other uses.
- 4.7.15 The width of a driveway for one-lane use shall be not less than 10 feet as measured at its narrowest point. The width of a driveway for two-lane use shall be a minimum of 18 feet as measured at its narrowest point and a maximum of 24 feet. The Highway Superintendent may allow up to a thirty-foot width if such approval will promote improved safe and efficient traffic circulation.
- 4.7.16 Driveways greater than 150 feet in length from the edge of road to the nearest exterior door, as measured along the driveway path, shall be designed and maintained to support the imposed loads of Town of Spencer fire apparatus as determined necessary and specified by the Spencer Fire Department and shall be surfaced with a durable, all-season nondusting material, drained, suitably maintained and shall be a minimum of 12 feet in

width for a one-lane use driveway and a minimum of 18 feet in width for a two-lane use driveway. The Spencer Fire Department may permit greater distances before this requirement goes into effect in accordance with the provisions of the latest edition in effect of the Massachusetts Comprehensive Fire Safety Code, Chapter 18 Fire Department Access and Water Supply (527 CMR 1.00).

- 4.7.17 Any and all portions of a driveway intended to serve as Fire Department access shall be designed and constructed in accordance with the latest edition in effect of the Massachusetts Comprehensive Fire Safety Code, Chapter 18 Fire Department Access and Water Supply (527 CMR 1.00).
- 4.7.18 Prior to a driveway's construction, a temporary anti-mud tracking pad must be installed for a minimum distance of 50' from the driveway's intersection with the street in accordance with standards established by the Spencer Highway Department. Road areas must be kept clean of mud, dirt, stones, etc. at all times.
- 4.7.19 Prior to construction of the final driveway apron coordination with the Highway Superintendent shall be required to verify all construction requirements including but not limited to conformance with all applicable Town Bylaws and related requirements; and nature and extent of repairs required by the Highway Superintendent to existing roadway resulting from access to/from the property along its entire length of public or private way frontage.

Proposed Driveway Regulations:
SPENCER ZONING BYLAW

(3/15/16)

Delete Current Section 6.2 Common Driveways in its entirety and in its place adopt the following:

4.5 Driveways/Curb-Cuts

- 4.5.1 All driveways and curb-cuts shall comply with the requirements of the Spencer General Bylaws - Section 4. (Driveways, Curb Cuts and Drainage), and require a Driveway/Curb-Cut Permit issued by the Spencer Highway Superintendent or his/her designee. No Certificate of Occupancy shall be issued until the final approval of the driveway and driveway apron has been issued by the Highway Superintendent.
- 4.5.2 Applications for a Special Permit, Site Plan Review or Variance involving the construction or alteration of a driveway/curb cut must include a Driveway/Curb Cut Permit tentatively approved by the Highway Superintendent or his/her designee.
- 4.5.3 Applications for a Building Permit, Special Permit, Site Plan Review, Variance or any other town permit involving the construction or alteration of a driveway/curb cut must include a Driveway/Curb Cut Permit tentatively approved by the Highway Superintendent, or his/her designee.
- 4.5.4 For driveways/curb-cuts that involve a Special Permit, Site Plan Review or Variance the permit granting authority may permit:

- a driveway closer than 10 feet to any side or rear lot line where they find that said driveway will still:
 - 5 provide safe and reasonable access for emergency vehicles
 - 6 be consistent with the purposes of this section
 - 7 not have a detrimental impact on public safety.
- 5 more than one driveway/curb-cut per parcel in their approval of said permits where they find that:

5.7 the applicant can show that there is something unique about the property that would otherwise render flow to and from the property unsafe and unmanageable, and

2. more than one curb cut is necessary for traffic safety purposes, and

- 5 it is necessary to achieve, and does not conflict with, the Design Standards of this section.
- 6 it will be consistent with the purposes of this section
- 7 it will not have a detrimental impact on public safety.

4.7.20 Common Driveways

- Purpose - Common driveways are not intended to circumvent the legal requirements for each lot having the required accessible minimum frontage. The purpose of allowing common driveways is to reduce traffic hazards and turning movements from numerous individual driveways and curb-cuts, to consolidate access to the buildable areas of lots across wetland resources, and to minimize the removal of trees and other vegetation, thereby preserving the rural character.

Abutting property owners are encouraged to coordinate access to their lots utilizing common curb-cuts and driveways under reciprocal easements. The Planning Board, in the approval of its Special Permit or Site Plan Review, may waive setback and related requirements to achieve this where they find that the applicant demonstrates that the curb-cut and access driveway design improves traffic circulation and reduces the number of turning movements onto the public way.

- Authorization
 1. For Commercial, Industrial, Institutional, Civic and Multi-Family Uses Common Driveways are permitted by-right subject to Site Plan Review issued by the Planning Board.
 2. For single-family dwellings, common driveways are allowed by Special Permit issued by the Planning Board provided:

a) it may service up to four lots

i. Up to six lots may be permitted for common driveways that loop to the same road in two locations and are not dead-ends in any location.

C. Applications - Site Plan Review and Special Permit Applications for a common driveway shall include:

1. a site plan, developed by and carrying the seal of a certified professional engineer or a registered land surveyor, showing the layout for the common

driveway, drainage, typical construction cross sections, profiles and meeting all of the design specifications required under this section.

2. easements, covenant and agreements, suitable for recording at the Registry of Deeds, for the subject lots containing restrictions including but not limited to:

a) prohibiting any additional vehicular access to said lots from other than the common driveway approved by this special permit.

b) stating that said common driveway is a private driveway and not a town way.

c) stating that if application is ever made for such common driveway to become a town way, such common driveway shall first, at the applicant's expense, be made to conform to the Rules and Regulations for the Subdivision of Land in the Town of Spencer in effect at the time that such application is made.

d) requiring that the maintenance, operation, repair and reconstruction (including snow plowing and snow/ice removal) is the responsibility and liability of the property owners.

3. an easement plan suitable for recording at the Registry of Deeds.

4. all deed easements, easement plans, restrictions, covenants and agreements must be submitted to and approved by the Planning Board prior to their recording and prior to the issuance of a common driveway special permit.

D. Design Standards – Proposed common access driveways shall also comply with all of the following:

1. All requirements of the Spencer General Bylaws - Section 4. Driveways, Curb Cuts and Drainage shall apply. The following standards in this section shall supersede those of the General Bylaw in cases where they conflict.

2. Shall be of suitable construction, grade, length and location, in the opinion of the Planning Board, for the access and turnaround of cars, trucks, ambulances, fire, and police which will be utilizing such driveway.
3. Each lot must have adequate approved legal frontage on an existing public way. Frontage requirements for each lot shall be along a town, county, state or approved subdivision road. Frontage along the length of private/common access driveways shall in no way be used to satisfy frontage requirements as specified in this section.
4. It shall access from the same public way that serves as the frontage for the lots being serviced by the common driveway, unless unique circumstances presented to the Planning Board are such that the Board may grant permission to access the common driveway from another public way.
5. It shall provide the only vehicular access to the lots being serviced by it, and shall be so stated in the lot deeds.
6. An easement with a minimum width of 24 feet shall be created and recorded along with the deeds for the lots to assure maintenance, drainage, snow removal, snow storage, rubbish collection, and the like, and liability for the common driveway shall remain the responsibility of the private parties, or their successors-in-interest, in perpetuity. A copy of the draft maintenance agreement shall be submitted with the application.
7. The minimum width for the durable surface shall be 12 feet and maximum width shall be 15 feet, with a 3 foot wide gravel shoulder on at least one side.
8. The minimum centerline radius shall be 45 feet.
9. The maximum length permitted shall be 2,000 feet.
10. Passing turnouts, providing a total width of at least 20 feet along a distance of at least 25 feet, spaced with no more than 300 feet between turnouts, and with the first such passing turnout at the driveway connection to the street, shall be provided.
11. A minimum side setback of 25 feet from any property not served by the proposed driveway.
12. No connection to any other way except the one from which it originates.
13. House numbers identifying all of the homes utilizing the common driveway shall be placed at its intersection with the town road and at each subsequent turnoff from the common driveway sufficient for identification by emergency vehicles.

- E. Certification - Prior to the issuance of any occupancy permits for any of the lots serviced by such common driveway, the applicant shall submit to the Planning Board, as-built construction plans, prepared and stamped by a registered professional engineer and a certified statement from a registered professional engineer that such common driveway was constructed in accordance with the approved plans.

F. Waiver - Planning Board may grant waivers from the requirements of this section if they make a finding that doing so would not be inconsistent with the Purposes of this section nor have a detrimental impact on public safety.